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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,786	09/27/2001	Rick Rowe	IGTECH.0028P	3692
22434	7590	11/03/2004	EXAMINER	
BEYER WEAVER & THOMAS LLP			COBURN, CORBETT B	
P.O. BOX 778			ART UNIT	
BERKELEY, CA 94704-0778			PAPER NUMBER	

3714

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/965,786

Applicant(s)

ROWE ET AL.

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 13-16, 19 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 13-16, 19 and 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date, \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-10, 13-16, 19 & 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (US Patent Number 6,113,495).

**Claims 1, 8, 19, 23:** Walker teaches an information system associated with a gaming system including at least one gaming device (300), the gaming device is arranged to present at least one game for play thereon (slot machine game). There is a player tracking device (360) associated with said gaming device. The player tracking device including a card reader (364), a keypad (370), at least one speaker (353) and at least one display (362). (Since all components are electrically connected, they are part of the player tracking device – the physical location of the component in the cabinet is immaterial.) Walker teaches a player tracking host (110) arranged to store data regarding one or more players of said gaming device (in Player Tracking Database 400). The player tracking host (110) is also an

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information system host. The information system host is arranged to determine the eligibility of a player of said gaming device to multi-media information (Fig 7A, 715). Eligibility is determined from data regarding the player (Fig 4). The information system host is arranged to generate multi-media information for presentation by said player tracking device of said gaming device based upon said eligibility. (Figs 7A-C & 8) The multi-media information may be video or one or more images for presentation upon said at least one display of said player tracking device and audio information for presentation by said at least one speaker of said player tracking device. (Col 7, 44-61) There is a communication link between said player tracking device and said player tracking host over which said generated information is transmitted. (Fig 1) The multimedia information may be presented independent of player activity (i.e., to all players on a particular class of machines.) (Col 2, 57-60) Walker teaches both the structure and the method of using it.

**Claims 2, 9, 24:** The information host is arranged to determine said eligibility in response to an indication from said player tracking host that a player has begun playing said gaming device. (Fig 8)

**Claim 3:** The communications link comprises a portion of a communication network. (Fig 1)

**Claim 4:** A plurality of player tracking devices associated with differing gaming devices are associated with said player tracking host. (Fig 1 & Col 3, 14-16)

**Claims 5, 13, 21:** The information host is adapted to generate information regarding a player promotion. (Information is provided as a "comp". Col 4, 27-34.

Comps are player promotions.)

**Claim 7:** Fig 3 shows the player tracking device (360) in a separate box. The location of this box is immaterial, but it appears to be near the top of the machine. Furthermore, Walker '495 teaches that the multimedia content may be displayed on display (362). (Col 7, 44-61) This would mean that the display would be at eye level – i.e., on the top of the device.

**Claim 10:** The indication comprises the transmission of player identification information from the player tracking device to the player tracking host. (Fig 7A, 705)

**Claims 14, 26:** The step of determining player eligibility comprises determining if said player has accrued a number of reward points. (Fig 4, 435 & Col 2, 57-60)

**Claims 15, 25:** The step of determining player eligibility may include determining if said player is playing a certain type of gaming device. (Col 2, 53-5)

**Claims 16, 22:** The multi-media information may include information regarding a bonus. The multimedia information may be used as a form of comp. Comps are a form of bonus.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-5, 7-10, 13-16, 19 & 21-26 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 & 18-28 of copending Application No. 10/242559. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the identical structure and method for use.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-5, 7-10, 13-16 & 19 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Corbett B. Coburn  
Examiner  
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